

studied at public schools and was no stranger to poverty and discrimination.

She spent weekends and summers working in her father's small business, and she was surrounded by the love and lessons of her immigrant family. Now, these experiences all helped to shape the unique and needed perspectives that she now brings as a Federal judge. If confirmed, Judge Koh will become the first Korean-American woman to serve on a Federal circuit court.

Now, as the first Latino to represent California here in this Senate, I know the importance of diversity at all levels of government, and that includes the judiciary. Our country is stronger and fairer when we are guided by the voices and experiences of all of our people. And we still have a lot of work to remake our justice system to better reflect the country that it serves.

Based on Judge Koh's record, her skill, intellect, and respect for the rule of law, her confirmation is a big step in helping us achieve that goal.

I urge my colleagues to join me in voting to confirm her to the Ninth Circuit.

I yield the floor.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the nomination, which the clerk will report.

The legislative clerk read the nomination of Lucy Haeran Koh, of California, to be United States Circuit Judge for the Ninth Circuit.

VOTE ON KOH NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Koh nomination?

Mrs. MURRAY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE), the Senator from Wyoming (Mr. LUMMIS), the Senator from Kansas (Mr. MORAN), the Senator from Florida (Mr. RUBIO), and the Senator from North Carolina (Mr. TILLIS).

The result was announced—yeas 50, nays 45, as follows:

[Rollcall Vote No. 494 Ex.]

YEAS—50

| | | |
|--------------|--------------|----------|
| Baldwin | Feinstein | Markey |
| Bennet | Gillibrand | Menendez |
| Blumenthal | Hassan | Merkley |
| Booker | Heinrich | Murphy |
| Brown | Hickenlooper | Murray |
| Cantwell | Hirono | Ossoff |
| Cardin | Kaine | Padilla |
| Carper | Kelly | Peters |
| Casey | King | Reed |
| Coons | Klobuchar | Rosen |
| Cortez Masto | Leahy | Sanders |
| Duckworth | Lujan | Schatz |
| Durbin | Manchin | Schumer |

Shaheen
Sinema
Smith
Stabenow

Tester
Van Hollen
Warner
Warnock

Warren
Whitehouse
Wyden

NAYS—45

Barrasso
Blackburn
Blunt
Boozman
Braun
Burr
Capito
Cassidy
Collins
Cornyn
Cotton
Cramer
Crapo
Cruz
Daines

Ernst
Fischer
Graham
Grassley
Hagerty
Hawley
Hoeven
Hyde-Smith
Johnson
Kennedy
Lankford
Lee
Marshall
McConnell
Murkowski

Paul
Portman
Risch
Romney
Rounds
Sasse
Scott (FL)
Scott (SC)
Shelby
Sullivan
Thune
Toomey
Tuberville
Wicker
Young

NOT VOTING—5

Inhofe
Lummis

Moran
Rubio

Tillis

The nomination was confirmed.

(Mr. WHITEHOUSE assumed the Chair.)

The PRESIDING OFFICER (Mr. HEINRICH). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The Senator from Rhode Island.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. WHITEHOUSE. Mr. President, I am here on the floor to ask for some courtesy for a pair of nominees. These are nominees to the Court of Federal Claims, which is the court to which citizens can come with claims against the Federal Government.

In the Court of Federal Claims, the Federal Government is the defendant, and these two individuals are in an enormous traffic jam that our colleagues have created for nominees. At the moment, I am told we have 159 nominees, out of committee, on the Executive Calendar, backed up on the Senate floor—159.

I am on the Judiciary Committee. These two are judges. They are for the Court of Federal Claims. This is not a partisan thing; this is about letting the Court of Federal Claims do its work.

Both of them are extremely well qualified; neither is partisan. Both were voice voted out of the Judiciary Committee, and I would hope, just as a matter of courtesy and common decency, we could agree tonight to move them forward.

Now, one of them is named Armando Bonilla. He served as the counsel to the Marshals Service. He served as counsel to the Deputy Attorney General.

He served, actually, as Associate Deputy Attorney General. In the Department of Justice it is not an easy thing to move up from being counsel to the Marshals Service to being counsel to the DAG, to being Associate DAG. So that is a pretty impressive record.

Before that, as a trial attorney, he had served in the Public Integrity Section of the Department, in the asset forfeiture and money laundering section, bringing those cases, and in the civil side in the Commercial Litigation Division.

So he has the trial qualifications you would want. He has the experience from the government side that you would want. He got a voice vote out of committee. And if that is not enough, he is a graduate from West Virginia University.

So he is, I think, a very well-rounded individual who would serve well in the Court of Federal Claims.

Also, I will be asking to confirm Carolyn Lerner, who brings her own superb qualifications to this position as well. She is, right now, the chief circuit mediator for the Court of Appeals for the DC Circuit. So she deals with litigation conflicts all the time. She obviously is viewed with considerable regard by the court who made her their chief circuit mediator.

She served for many years in private practice. So she would be very familiar with the private practice of individuals who come before the Court of Federal Claims. Again, private person versus Federal Government is what that court's business is. And she even taught law.

So Carolyn Lerner and Armando Bonilla are both very well qualified, and both came out of the Judiciary Committee with voice votes, which means they both had bipartisan support, and this is an important court to proceed with.

Now, what has happened here and the reason we are now up to 159 backed-up nominees for executive and judicial positions is that our colleagues on the other side are insisting on cloture for essentially almost every individual who comes through, and that eats up time on the Senate floor and slows things down and creates a traffic jam. It is like you are driving on Highway 95 and you pull into the middle lane and drive 25 miles an hour. You are going to jam up traffic behind you. And that is what our friends are doing. They are jamming up traffic.

I think there are certain Members of the other party who would like to see the Biden administration not be able to get his team in place just for partisan reasons.

So when Donald Trump came in, in his first year, he was obviously not popular with us on our side, and he had some pretty appalling appointments. But even in that very hostile environment, the Republican leader only had to file cloture for 65 appointees—65 in that first year. In President Biden's year, we are already at 127. So the cloture rate has doubled from even that very difficult, challenging year when Trump first came in.

And I see my friend from Alaska here. So I will just review the bidding. We have 159 nominees backed up on the Senate floor who are all out of committee, all ready for votes, many of whom are coming out of committee by voice votes with big bipartisan majorities. Two of them are the individuals whom I am going to be asking unanimous consent to confirm tonight, Armando Bonilla and Carolyn Lerner.

My friend from Alaska served in the Department of Justice. So he knows that it ain't nothing to be counsel to the Marshals Service and then counsel for the DAG and then Associate DAG. That is a really impressive climb through the top ranks of the Department—and to have served as a trial attorney in the Public Integrity Section and in the asset forfeiture and money laundering section and in the civil side in complex commercial litigation. That is a very impressive resume.

That is ditto for Ms. Lerner, who has been chosen to be the chief circuit mediator for the DC Circuit Court of Appeals. That is a pretty impressive credential all on its own.

So what I would like to do in order to get these two through the traffic jam and on to the Court of Federal Claims, where their presence is needed, is to ask unanimous consent that the Senate proceed to executive session to consider their nominations, which are Executive Calendar Nos. 489 and 490; and, further, that the nominations be confirmed, that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. SULLIVAN. Reserving the right to object, Mr. President, I work very closely with my colleague from Rhode Island on many, many issues, and there is a pretty simple solution for my objection here, and it is related to judges, and it is related to the Senate working with the White House to get judges confirmed.

I gave a speech on the Senate floor just about an hour ago, talking about a remarkable breach of Senate protocol, where the White House won't let certain Senators from the Court of Appeals of the Ninth Circuit States to meet with the nominees for the Court of Appeals for the Ninth Circuit.

That is an outrage. In my entire time in the U.S. Senate, every time I have requested to meet with a judge who is going for confirmation to the U.S. Court of Appeals for the Ninth Circuit, I have had the opportunity to meet with that judge, and it is really important.

I am not going to repeat the argument I made just an hour ago, but there is a simple solution here: We get to meet with the nominees whom we are debating on the Senate floor this week, and I certainly will lift the objection that I am about to make on these two nominees for the Court of Federal Claims.

But I do want to just push back on my good friend from Rhode Island a little bit. My colleagues on the other side of the aisle forced votes on the Court of

Federal Claims nominees during the Trump administration, including Judge Solomon, who literally wrote the book on the Court of Federal Claims.

So here is the thing. What often happens in the Senate is that what goes around comes around. But what happened today, when I was requesting what I have always been requesting—what my constituents in Alaska expect me to do is to interview, meet, discuss issues with the judge who is going to get life tenure, who is going to have enormous power over my constituents—Ninth Circuit Court of Appeals judges.

I don't know anybody who has heard this—that the White House Counsel says: No, you are a Senator doing advice and consent, a constitutional duty, and we are forbidding you to meet with a judge going through the confirmation process who is going to have enormous power over your constituents. That is unheard of since I have been here. And, by the way, I talked to the Trump administration's White House Counsel, and they said they never did that.

But here is the point. This could be easily solved. I am sure Mr. Bonilla and Ms. Lerner are qualified. All I need is a call from the White House Counsel's office saying: You know what, Senator, you can meet with the nominees for the U.S. Court of Appeals for the Ninth Circuit. We are going to let you do your constitutional duty.

Well, thank you—pretty simple.

And I think working closely with my colleague from Rhode Island, as I have done throughout my career—and he is on the Judiciary Committee. So maybe he can help convince the White House to take a bit of a different stand when a Senator wants to meet with a judge who is going to have enormous power over his constituents and have lifetime tenure. And they can't take an hour out of their time? Heck, in my speech just an hour ago, I put out my office's phone number and said to these judges: Look, you don't have to have permission from the White House Counsel. Just call me. Let's have a discussion.

I am trying to do my constitutional duty here.

So with that, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Rhode Island.

Mr. WHITEHOUSE. In the spirit of "what goes around comes around," let me just say that the First Circuit is a good deal smaller than the Ninth Circuit. My State of Rhode Island is in the First Circuit. We didn't have many vacancies during the Trump administration on the First Circuit, and the only one we had was not filled.

But I am not aware of any Member on our side being offered to meet with any Trump judicial nominee at the Circuit Court level. And indeed—indeed—those of us who are on the Judiciary Committee didn't even get our 5 or 7 minutes of time in the hearing with Trump Circuit Court nominees because

the Trump administration worked out some kind of a deal that their nominees could be put on the same panel—something that had only been done before with the agreement of both parties.

So they would bring in their Circuit Court nominees, and you still got your 5 minutes or your 7 minutes. But now there are two or three on the panel. You get like 1 minute each.

So I just have to say that I like my friend from Alaska and we do work well together. But when I couldn't get 5 or 7 minutes in the committee in the hearing with a Circuit Court nominee, it is hard for me to feel a great sense of outrage that somebody not on the committee doesn't get a special private meeting with judges. We never got special private meetings with judges. We didn't even get our time with the judges in the hearing because they sandwiched a bunch of them on the same panel in our same 5 to 7 minutes.

So what I would like to do is to propose, since the objection has been made to confirming them tonight, that at least we might consider moving through the cloture step so that a vote can be scheduled and everybody can have their vote one way or the other.

So my first unanimous consent request would have confirmed them, and a call could have gone out to them and to their families tonight saying: The holds are off. Your life is back in order. You can go to the job you have been nominated for.

And all would have been well.

There has been an objection to that. So what I would like to do is simply ask that they be allowed to tee up for a vote when scheduled, without having to pursue the cloture path.

So I ask unanimous consent that, notwithstanding rule XXII, if applicable, at a time to be determined by the majority leader in consultation with the Republican leader—in consultation with the Republican leader—the Senate proceed to executive session to consider the following nominations: Again, Executive Calendar Nos. 489 and 490; and that there be 10 minutes of debate, equally divided in the usual form, on the nominations, en bloc; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that if the nominations are confirmed, the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order regarding the nominations; and that the President be immediately notified of the Senate's action.

Again, this would not confirm them tonight. Their families will not get this call. But they are freed from our little Executive Calendar traffic jam. But it would at least put them on a pathway toward confirmation.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. SULLIVAN. Mr. President, reserving the right to object.

I have a simpler solution here, and I have already mentioned it.

The White House has denied my ability to meet with one Ninth Circuit judge who just got confirmed. Let me meet with the next two, and then we will UC these. We will UC these nominees whom Senator WHITEHOUSE has been trying to move forward tonight.

I also want to mention to my colleague from Rhode Island that I am certainly more than amenable to working with him on a principle that, I think, all Senators should agree on—all of us—to strengthen this institution, whether you are a Democrat, a Republican. That is this simple idea, which I thought existed here because I have certainly been able to do it: If a judge is up for confirmation, a circuit judge, and if you are a Senator representing one of the States in the circuit and that judge is going to have enormous power over your constituents for life, we should, as a general rule, as a general principle, say always: Of course, you get to meet with that judge. Of course, you can do your constitutional advice and consent duty.

I would be for it for any Democrat who wants it if there is a Republican. Again, I talked to some folks from the Trump administration today. They said that they always offered that. So maybe there is a misunderstanding. I don't want to say that my Senate colleague from Rhode Island is not right or those guys. I don't know. That is what they mentioned to me.

I just think, as a principle, every Senator here should agree with it. Why wouldn't you want to do that?

Like I said, until today, I have met with every single Ninth Circuit judge whom we voted on in my entire career here. Now, it has been a relatively short career, but this is really important to the people I represent because that court is really important to the people I represent. The Ninth Circuit so frequently gets the law wrong as it relates to Alaska, and it negatively impacts my constituents. This is important.

So I object to this date certain request, but as I mentioned, if I can meet with these—two more—Ninth Circuit judges, Senator WHITEHOUSE can come down here and UC these two Court of Federal Claims judges, and I think he can move it. It is a real simple ask.

And the fact that the White House Counsel hasn't even called me back—a U.S. Senator trying to do his constitutional duty, advice and consent of the Senate? The Senator from Rhode Island and I are of the Senate.

So why don't we work on this principle that, if there is a nominee, a circuit judge nominee, and if a Senator from a State in that circuit wants to meet with that nominee—to do his constitutional duty—that we should all agree to do that no matter who is in the White House. I would agree to that principle in a heartbeat.

The PRESIDING OFFICER. Objection is heard.

The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I think we have concluded this matter for the evening, and I am sorry that it has ended this way because Mr. Bonilla and Ms. Lerner are essentially collateral damage in a fight that does not involve the Court of Federal Claims at all. This involves a dispute between the Senator from Alaska and the White House, whom I do not direct and whom I do not speak for.

Instead of keeping it within the confines of the Ninth Circuit, it has now spilled over to the Court of Federal Claims, and these two completely unrelated individuals are continuing to have their lives interfered with by being kept in the traffic jam for a principle that, in my view, was never followed in the previous administration. I mean, for Pete's sake, if they were not going to even let us have our official time with a circuit court judge, the idea that we were going to get private meetings is, I think, imaginative in the extreme.

I just regret that it has come to this pass. I regret that we are at 159 obstructed nominees backed up. I regret that we have been forced to file cloture twice as much as that first group of Trump's nominees, in his first year—and there were some real beauties there, I have got to tell you.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. SMITH). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. SCHUMER. Madam President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS SALES NOTIFICATION

Mr. MENENDEZ. Madam President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of certain proposed arms sales as defined by that statute. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Senate Foreign Relations Committee.

In keeping with the committee's intention to see that relevant informa-

tion is available to the full Senate, I ask unanimous consent to have printed in the RECORD the notifications which have been received. If the cover letter references a classified annex, then such annex is available to all Senators in the office of the Foreign Relations Committee, room SD-423.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY
COOPERATION AGENCY,
Arlington, Va.

Hon. ROBERT MENENDEZ,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 21-63, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Greece for defense articles and services estimated to cost \$6.9 billion. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

JEDIDIAH P. ROYAL,
Acting Director.

Enclosures.

TRANSMITTAL NO. 21-63

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Government of Greece.

(ii) Total Estimated Value:

Major Defense Equipment* \$5.4 billion.

Other \$1.5 billion.

Total \$6.9 billion.

Funding Source: National Funds

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:

Major Defense Equipment (MDE):

Four (4) Multi-Mission Surface Combatant (MMSC) Ships.

Five (5) COMBATSS-21 Combat Management Systems (4 installed, 1 spare).

Five (5) Vertical Launch Systems (VLS), MK 41 (4 installed, 1 spare; 8 cells per set).

Two hundred (200) Rolling Airframe Missiles (RAM) BLK 2 (84 installed, 10 test and training rounds, 106 spares).

Five (5) MK 49 Guided Missile Launcher Systems (4 installed, 1 spare).

Eight (8) RAM BLK 2 Telemetry Missiles.

Thirty-two (32) Vertical Launch Anti-Submarine Rocket (ASROC) Missiles (VLA) (12 installed (3 per ship), 8 test and training rockets, 12 spares).

Sixteen (16) 7.62mm M240B Machine Guns with ammunition (8 installed (2 per ship), 8 spares).

Thirty-two (32) MK-54 All Up Round Lightweight Torpedoes (16 installed (4 per ship), 16 spares).

Non-MDE: Also included are additional single, VLS cells for VLA; ordnance; testing; training; follow-on support; TRS-4D radars; Common Anti-Air Modular Missile (CAMP); Common Anti-Air Modular Missile-Extended Range (CAMP-ER); Naval Strike Missile (NSM) RGM-184B and launchers; MK 46 Lightweight Upgrade to MK 54 Lightweight Torpedo; torpedo containers; Recoverable Exercise Torpedoes (REXTORP) with containers; Exercise Torpedoes (EXTORP) with containers; Expendable Mobile A-size Anti-submarine Warfare (ASW) Training Targets (EMATTs); Fleet Exercise Section (FES) and fuel tanks to be used with MK 54 conversion kits; air launch accessories for fixed wing;